

the MDU owner's property to its original condition, and the costs of repairing any damage to the incumbent provider's wiring or other property.

[62 FR 61033, Nov. 14, 1997]

§ 76.806 Pre-termination access to cable home wiring.

(a) Prior to termination of service, a customer may: install or provide for the installation of their own cable home wiring; or connect additional home wiring, splitters or other equipment within their premises to the wiring owned by the cable operator, so long as no electronic or physical harm is caused to the cable system and the physical integrity of the cable operator's wiring remains intact.

(b) Cable operators may require that home wiring (including passive splitters, connectors and other equipment used in the installation of home wiring) meets reasonable technical specifications, not to exceed the technical specifications of such equipment installed by the cable operator; provided however, that if electronic or physical harm is caused to the cable system, the cable operator may impose additional technical specifications to eliminate such harm. To the extent a customer's installations or rearrangements of wiring degrade the signal quality of or interfere with other customers' signals, or cause electronic or physical harm to the cable system, the cable operator may discontinue service to that subscriber until the degradation or interference is resolved.

(c) Customers shall not physically cut, substantially alter, improperly terminate or otherwise destroy cable operator-owned home wiring.

[62 FR 61034, Nov. 14, 1997]

Subpart N—Cable Rate Regulation

SOURCE: 58 FR 29753, May 21, 1993, unless otherwise noted.

EFFECTIVE DATE NOTE: The effective date of the amendments to part 76, published at 58 FR 29737 (May 21, 1993), extended to October 1, 1993, by an order published at 58 FR 33560 (June 18, 1993), and moved to September 1, 1993, by an order published at 58 FR 41042 (August 2, 1993), is temporarily stayed for those cable systems that have 1,000 or fewer subscribers. This limited, temporary stay is

effective September 1, 1993, and will remain in effect until the Commission terminates the stay and establishes a new effective date in an order on reconsideration addressing the administrative burdens and costs of compliance for small cable systems. The Commission will publish in the FEDERAL REGISTER the new effective date of the rules with respect to small cable systems at that time.

§ 76.900 Temporary freeze of cable rates.

(a) The average monthly subscriber bill for services provided by cable operators subject to regulation under Section 623 of the Communications Act shall not increase above the average monthly subscriber bill determined under rates in effect on April 5, 1993, for a period of 120 days.

(b) The average monthly subscriber bill shall be calculated by determining for a monthly billing cycle the sum of all billed monthly charges for all cable services subject to regulation under section 623 of the Communications Act and dividing that sum by the number of subscribers receiving any of those services. The average monthly subscriber bill determined under rates in effect on April 5, 1993, shall be calculated based on customer charges for the most recent monthly billing cycle ending prior to April 5, 1993.

§ 76.901 Definitions.

(a) *Basic service.* The basic service tier shall, at a minimum, include all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the cable system) any public, educational, and governmental programming required by the franchise to be carried on the basic tier, and any additional video programming signals a service added to the basic tier by the cable operator.

(b) *Cable programming service.* Cable programming service includes any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

(1) Video programming carried on the basic service tier as defined in this section;

(2) Video programming offered on a pay-per-channel or pay-per-program basis; or

(3) A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:

(i) Consists of commonly-identified video programming; and

(ii) Is not bundled with any regulated tier of service.

(c) *Small System.* A small system is a cable television system that serves 15,000 or fewer subscribers. The service area of a small system shall be determined by the number of subscribers that are served by the system's principal headend, including any other headends or microwave receive sites that are technically integrated to the principal headend.

(d) *New Product Tier.* A new product tier ("NPT") is a cable programming service tier meeting the conditions set forth in § 76.987.

(e) *Small cable company.* A small cable company is a cable television operator that serves a total of 400,000 or fewer subscribers over one or more cable systems.

[58 FR 29753, May 21, 1993, as amended at 59 FR 62623, Dec. 6, 1994; 60 FR 35864, July 12, 1995]

§ 76.905 Standards for identification of cable systems subject to effective competition.

(a) Only the rates of cable systems that are not subject to effective competition may be regulated.

(b) A cable system is subject to effective competition when any one of the following conditions is met:

(1) Fewer than 30 percent of the households in its franchise area subscribe to the cable service of a cable system.

(2) The franchise area is:

(i) Served by at least two unaffiliated multichannel video programming distributors each of which offers comparable programming to at least 50 percent of the households in the franchise area; and

(ii) the number of households subscribing to multichannel video programming other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area.

(3) A multichannel video programming distributor, operated by the franchising authority for that franchise area, offers video programming to at least 50 percent of the households in the franchise area.

(4) A local exchange carrier or its affiliate (or any multichannel video programming distributor using the facilities of such carrier or its affiliate) offers video programming services directly to subscribers by any means (other than direct-to-home satellite services) in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, but only if the video programming services so offered in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.

(c) For purposes of paragraphs (b)(1) through (b)(3) of this section, each separately billed or billable customer will count as a household subscribing to or being offered video programming services, with the exception of multiple dwelling buildings billed as a single customer. Individual units of multiple dwelling buildings will count as separate households. The term "households" shall not include those dwellings that are used solely for seasonal, occasional, or recreational use.

(d) A multichannel video program distributor, for purposes of this section, is an entity such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, a television receive-only satellite program distributor, a video dialtone service provider, or a satellite master antenna television service provider that makes available for purchase, by subscribers or customers, multiple channels of video programming.

(e) Service of a multichannel video programming distributor will be deemed offered:

(1) When the multichannel video programming distributor is physically